IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13945 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

AHMEDABAD SILK EMPLOYEES UNION - Petitioner(s)
Versus
OFFICIAL LIQUIDATOR OF NANIKRAM SOBHRAJ MILLS LTD., & 5 - Respondent(s)

==========

Appearance :
MR DS VASAVADA for Petitioner(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1 - 6.

==========

CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 20/02/2007

ORAL JUDGMENT

1. By way of this Special Civil Application under Article 226 of the Constitution of India, the petitioner – Ahmedabad Silk Employees' Union has

prayed for an appropriate order by holding that 599 workmen of the Nanikram Sobhraj Mills Limited are entitled to receive the gratuity under the Payment of Gratuity Act; 1972 and also to recover amount of gratuity to the tune of Rs.64,81,000/- and the interest accrued thereon. It is also further prayed to direct the State Bank of India, Main Branch, to release the amount of Rs.64,81,000/- lying in Account No.032 under the Special Deposit Scheme placed by the Employees' Gratuity Trust of the N.S. Mills Limited and transfer the same either in the account which will be opened by the petitioner Union or it may be transferred in the account of the trustees who are respondent Nos.5 and 6 with a further direction to them to disburse the amount of gratuity to the concerned eligible workmen as per the details given by the State Bank of India and on the identification by the petitioner Union.

2. On 6th February, 2007, this Court passed the following order:-

"1. It is not in dispute that amount of gratuity to the tune of Rs. 64,81,000/- (Rupees Sixty Four Lacs and Eighty One Thousand only) and the interest accrued thereon is with the State Bank of India in Account No. 032 under the Special Deposit Scheme placed by Employees Gratuity Trust of N.S. Mills Ltd and the said account is still in operation. Shri Roshan Desai, learned Advocate, who appears on the request of this Court has obtained necessary instructions from the State Bank of India and has submitted that the Bank would have no objection in making the payment of aforesaid amount provided necessary formalities are completed and trustees of the trust sign the cheque and submit the application in whose favour the pay order / Demand Draft is to be issued. Shri D.S.Vasavda, learned Advocate for the applicant has submitted that the trustees will approach the Bank and complete the formalities which are required to be complied with and even sign the cheque and submit the application that aforesaid amount along with the interest accrued thereon be paid over to the Official Liquidator and the Pay Order / Demand Draft be accordingly issued to the Official Liquidator. After the amount is deposited with the Official

Liquidator, an appropriate order to disburse the amount in favour of the workers can be passed. State Bank of India is directed to act accordingly and on complying all the requirements on the application of the trustees and issue Pay Order / Demand Draft in favour of the Official Liquidator of N.S.Mills Ltd. attached to this Court.

2. The aforesaid action will be completed within a period of one week from today. Direct service of this order is permitted. Stand over to 13.02.2007."

3. Today, when this matter is called out, Shri Vasavada, learned advocate appearing for the petitioner has submitted that apropos the order passed by this Court earlier all the formalities are completed by the trustees, however, in view of the fact that there is one another Current Account No.10542889236 in which approximately an amount of Rs. 5 Lacs is lying in the account of the trust and the officers of the State Bank of India have submitted that if an appropriate order is passed with regard to the said amount, in that case, they will make the entire payment

as ordered by this Court. When a specific order has been passed by this Court on 6th February, 2007, the Officers of the State Bank of India are bound to comply with the same and to make the payment by Pay Order / Demand Draft in favour of the Official Liquidator. Accordingly, the respondent No.2 and its Officers are directed to issue Pay Order / Demand Draft in favour of the Official Liquidator for the amount which is lying in the account No.032 along with accrued interest, if all the formalities are completed by the trustees. The aforesaid exercise to be completed within a period of one week from the date of receipt of this order. So far as the amount alleged to be lying in the Current Account, referred to hereinabove, is concerned, the petitioner to move an appropriate application so that an appropriate order can be passed, however, the respondent No.2 shall not wait for the said order and the respondent No.2 is directed to make the payment of the aforesaid amount of Rs.64,81,000/- along with interest accrued thereon as stated hereinabove. On

receipt of the said amount by the Official Liquidator, the Official Liquidator to get the particulars / details of such eligible workers for whose benefit and / or in whose account the aforesaid amount of gratuity was deposited with the State Bank of India and the concerned respondents are directed to furnish the necessary details / particulars of such workmen to the Official Liquidator for making the payment and thereafter the Official Liquidator to disburse the said amount to the concerned workmen on proper identification.

4. With these, the present Special Civil Application is disposed of.

Direct Service is permitted.

[M.R.Shah, J.]

kdc